

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 OMAR QAZI,

8 Defendant.

Case No. 2:15-cr-00014-APG-VCF

**ORDER DENYING DEFENDANT'S
MOTION IN LIMINE**

(ECF No. 316)

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11 Defendant Omar Qazi filed a motion in limine to preclude the government from offering
12 into evidence the gun and buccal swab taken at the time of his arrest. ECF No. 316. Qazi argues
13 that there has been a serious break in the chain of custody regarding those items.

14 Federal Rule of Evidence 901(a) provides that, in order to “satisfy the requirement of
15 authenticating or identifying an item of evidence, the proponent must produce evidence sufficient
16 to support a finding that the item is what the proponent claims it is.” That can be accomplished
17 by testimony of a witness with knowledge. Fed. R. Evid. 901(b)(1). But that does not end the
18 inquiry.

19 If the evidence is an object connected with the commission of a crime, the
20 proponent must also establish the chain of custody. . . . The prosecution must
21 introduce sufficient proof so that a reasonable juror could find that the items in the
22 bag are in “substantially the same condition” as when they were seized. . . . The
23 district court may admit the evidence if there is a “reasonable probability the
24 article has not been changed in important respects.” . . . Further, in the absence of
25 any evidence of tampering, a presumption exists that public officers “properly
26 discharge[] their official duties.”

United States v. Harrington, 923 F.2d 1371, 1374 (9th Cir. 1991).

25 Qazi’s motion does not demonstrate a significant break in the chain of custody and does
26 not create a reasonable probability that the gun and buccal swab were changed in important
27 respects. Thus, I will deny the motion without prejudice. At trial, the government still must
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1 prove authenticity and a sufficient chain of custody. If it fails to do so, Qazi may move to
2 exclude the evidence at that time.

3 IT IS THEREFORE ORDERED THAT Qazi's motion in limine (**ECF No. 316**) is
4 **DENIED WITHOUT PREJUDICE.**

5 Dated: August 7, 2017.

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8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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